

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MCI WORLD.COM COMMUNICATIONS, INC.	:	
f/k/a WORLD.COM TECHNOLOGIES, INC.	:	
500 Clinton Center Drive	:	
Clinton, Mississippi 39056-5654	:	
	:	CIVIL ACTION
vs.	:	
	:	NO.
	:	
TUCOWS, INC. f/k/a INFONAUTICS	:	
CORPORATION	:	
590 North Gulph Road	:	
King of Prussia, PA 19406-2800	:	

COMPLAINT

PARTIES

1. The Plaintiff is MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., a Delaware corporation authorized to do business in Pennsylvania, with its principal place of business at 500 Clinton Center Drive, Clinton, Mississippi, 39056-5654. Plaintiff shall hereinafter be referred to as "WorldCom."

2. The Defendant, Tucows, Inc., formerly known as Infonautics Corporation¹, is a Pennsylvania corporation having its principal place of business at 590 North Gulph Road, King of Prussia, Pennsylvania. Tucows, Inc. f/k/a Infonautics Corporation, shall hereinafter be referred to as "Tucows."

¹ Upon information and belief, on August 28, 2001, Infonautics Corporation merged with Tucows, Inc.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over the claims herein pursuant to 28 U.S.C. § 1332 in that the matter in controversy is in excess of \$75,000 exclusive of interest and costs, and is between citizens of different states; and this Court has jurisdiction over the claims herein pursuant to 28 U.S.C. §§ 1331 and 1337 because it arises out of Federal Law, i.e. 47 U.S.C. § 157, and an Act of Congress regulating commerce.

4. This Court has supplemental jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 in that the Defendant resides in this judicial district and a substantial part of the events or omissions giving rise to the claim occurred within this district.

COUNT I - BREACH OF CONTRACT

6. Paragraphs 1 through 5 are incorporated herein by reference as if set forth at length.

7. WorldCom is a carrier of *inter alia*, long-distance, voice, data and video telecommunications services.

8. WorldCom provided various telecommunications services to Tucows, which Tucows accepted.

9. Tucows contracted with WorldCom and, *inter alia*, agreed to pay WorldCom for the provision of certain long-distance and other telecommunication services.

10. On or about March 8, 1999, Infonautics Corporation and WorldCom Technologies, Inc. entered into a WorldCom Intelenet Service Agreement (the "Intelenet

Agreement"), which, inter alia, incorporated all applicable tariffs filed by WorldCom with the FCC. A true and correct copy of the Agreement is attached hereto and incorporated herein as Exhibit "A".

11. Upon information and belief, Infonautics Corporation merged with Tucows on August 28, 2001, and therefore, Tucows is the proper party to this suit.

12. WorldCom Technologies, Inc, is now MCI WorldCom Communications, Inc., thereby making it the Plaintiff in this action.

13. WorldCom invoiced Tucows for the services it provided pursuant to the Intelenet Agreement and applicable tariffs.

14. Although Tucows eventually became delinquent in payment, WorldCom continued to provide service to Tucows and Tucows continued to accept service from WorldCom.

15. On April 17, 2001, WorldCom sent Tucows a letter demanding payment of all past due balances for Tucows' accounts with WorldCom.

16. On April 24, 2001, Tucows sent WorldCom a letter in response to WorldCom's request for payment. In that letter, Tucows claimed that it sold substantially all of its assets to Bigchalk.com on December 15, 1999, and as a result, Bigchalk.com was responsible for the payment of the past due balances for all of Tucows' accounts except for account 25159.

17. Prior to April 24, 2001, Tucows did not advise WorldCom or request WorldCom's consent to the transfer of any of its assets or liabilities to Bigchalk.com.

18. While a partial payment of \$86,225.75 was subsequently received from Bigchalk.com, an outstanding balance remains for accounts covered under the Intelenet

Agreement, which are the responsibility of Tucows and, upon information and belief, were used by Tucows.

19. WorldCom sent a final letter demanding payment for the delinquent accounts on November 30, 2001.

20. WorldCom's charges for the services provided were fair and reasonable, and were the rates agreed to by Tucows under the Intelenet Agreement and applicable tariffs.

21. Despite demand, Tucows has failed and refused, and continues to fail and refuse, to pay the amounts due for the services which it received from WorldCom.

22. As a direct and proximate result of Tucows' breach of the Intelenet Agreement, WorldCom has to date suffered significant monetary damages.

WHEREFORE, Plaintiff, MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., requests that judgment be entered in its favor and against Defendant, Tucows, Inc. f/k/a Infonautics Corporation, in an amount in excess of \$75,000, plus such interest, attorneys' fees, costs and expenses as may be allowed by law and are just and proper.

COUNT II - BREACH OF TARIFFS

23. Paragraphs 1 through 22 above are incorporated herein by reference as if set forth at length.

24. In accordance with Tariff Filing Requirements for Interstate Common Carriers, released November 25, 1992 under Public Notice No. 92-525, and the Communications Act of 1934, WorldCom filed various tariffs with the Federal Communications Commission, including MCI WorldCom Communications, Inc. Tariff FCC No. 1 and MFS Telecom, Inc.

Tariff FCC No. 2 (as amended or supplemented from time to time, the "WorldCom Tariffs").

25. The WorldCom Tariffs describe the services offered by WorldCom to its customers and contain rules, regulations and rates pursuant to which such telecommunications services are rendered.

26. In accepting the telecommunications services provided by WorldCom, Tucows undertook and assumed an obligation to make all payments due to WorldCom in accordance with the terms of the WorldCom Tariffs.

27. Because Tucows has failed to pay WorldCom for the services provided, Tucows is in breach of the WorldCom Tariffs.

28. As a direct and proximate result of Tucows' breach of the Intelenet Agreement and the WorldCom Tariffs, WorldCom has to date suffered significant monetary damages.

WHEREFORE, Plaintiff, MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., requests that judgment be entered in its favor and against Defendant, Tucows, Inc. f/k/a Infonautics Corporation, in an amount in excess of \$75,000, plus such interest, attorneys' fees, costs and expenses as may be allowed by law and are just and proper.

ALTERNATIVE COUNT III - QUANTUM MERUIT

29. Paragraphs 1 through 28 above are incorporated herein by reference as if set forth at length.

30. In the event it is determined that no agreement existed in fact or law between WorldCom and Tucows as set forth hereinabove, then in the alternative, it is averred

that WorldCom, at Tucows' request, and with Tucows' knowledge, acquiescence and acceptance, provided to Tucows the services described.

31. In the course of providing such services, WorldCom necessarily incurred various costs, charges, labor, use of its equipment and facilities and expenses.

32. Tucows has refused, despite demand, to pay the fair value for the services furnished, although the same is due.

WHEREFORE, Plaintiff, MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., requests that judgment be entered in its favor and against Defendant, Tucows, Inc. f/k/a Infonautics Corporation, in an amount in excess of \$75,000, plus such interest, attorneys' fees, costs and expenses as may be allowed by law and are just and proper.

ALTERNATIVE COUNT V - UNJUST ENRICHMENT

33. Paragraphs 1 through 32 above are incorporated herein by reference as if set forth at length.

34. Tucows obtained the described services from WorldCom and received and retained the proceeds and profits therefrom which constitutes a failure to give WorldCom proper restitution for the services and benefits received.

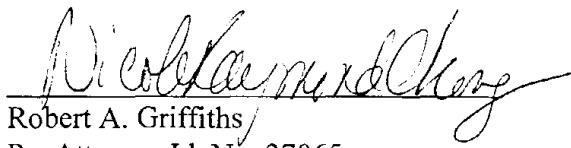
35. Tucows has been unjustly enriched at the expense of WorldCom.

36. Tucows' actions constitute an unjust retention of a benefit to the loss of WorldCom, which is contrary to the principles of equity of justice.

WHEREFORE, Plaintiff, MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., requests that judgment be entered in its favor and

against Defendant, Tucows, Inc. f/k/a Infonautics Corporation, in an amount in excess of \$75,000, plus such interest, attorneys' fees, costs and expenses as may be allowed by law and are just and proper.

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Date: July 2, 2002

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f/k/a WORLDCOM TECHNOLOGIES, INC. :
: CIVIL ACTION
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TUCOWS, INC. f/k/a INFONAUTICS :
CORPORATION :
590 North Gulph Road :
King of Prussia, PA 19406-2800 :
:

AFFIDAVIT

COUNTY OF :
: ss
STATE OF OKLAHOMA :

Sally P. Green, being duly sworn according to law, deposes and says that she is a Paralegal in Emerging Markets WorldCom, Inc., and is authorized to exercise this Affidavit on behalf of Plaintiff, MCI WorldCom Communications, Inc., formerly known as WorldCom Technologies, Inc., and that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.

Sally P. Green
Sally P. Green
Paralegal
Emerging Markets
WorldCom, Inc.

Sworn and subscribed before me
this 6 day of June, 2002.

Vicki A. Eklund
Notary Public

